

ORDINANCE NO. 15-1098

**ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF PLUMAS  
TO AMEND THE PLUMAS COUNTY CODE TO ALLOW THE CREATION OF  
EASEMENTS THROUGH THE EXECUTION AND RECORDATION OF COVENANTS**

The Board of Supervisors of the County of Plumas does ORDAIN as follows:

**SECTION 1.**

A. The Plumas County Planning Director and the Plumas County Building Official have recommended the addition of Chapter 11, "Creation of Easements Through the Execution and Recordation of Covenants," to Title 9 of the Plumas County Code as hereinafter set forth; and

B. The Board of Supervisors, after due consideration of the recommendation and at regular public meeting held on \_\_\_\_\_, 2015, finds that the proposed addition is in the public interest and will promote the public health, safety, and welfare.

**SECTION 2.**

Chapter 11, "Creation of Easement through the Execution and Recordation of Covenants", is hereby added to Title 9 of the Plumas County Code to read as follows:

**Chapter 11. CREATION OF EASEMENTS THROUGH THE EXECUTION  
AND RECORDATION OF COVENANTS**

**9-11.010 Purpose and Authority**

The purpose of this chapter is to implement California Government Code sections 65870-65875, inclusive, regarding the creation of easements through the execution and recordation of covenants.

**9-11.020 Creation**

In addition to any other method for the creation of an easement, an easement may be created by a recorded declaration and covenant of easement made by an owner of real property to the County, in accordance with the procedures set forth in this chapter.

**9-11.030 Purpose of Easement**

An easement may be created pursuant to this chapter for one or more of the following purposes: parking, ingress, egress, emergency access, light and air access, landscaping, or open space purposes.

### **9-11.040 Common Ownership**

At the time of the recording of the declaration and covenant of easement, all the real property benefited or burdened thereunder shall be in common ownership. The declaration and covenant of easement shall be effective when recorded and shall act as an easement pursuant to Chapter 3 (commencing with Section 801) of Title 2 of Part 2 of Division 2 of the Civil Code, except that it shall not merge any other interest in real property. Section 1104 of the Civil Code, Easements Passing with Property, shall be applicable to the conveyance of the affected real property.

### **9-11.050 Enforcement**

A declaration and covenant of easement executed pursuant to this chapter shall be enforceable by the successors in interest to the real property benefited by the declaration and covenant of easement.

### **9-11.060 Contents**

The form of declaration and covenant of easement recorded pursuant to this part shall be approved as to form by the County Counsel and include the following:

- (a) Legal descriptions of the real property subject to the easement and the real property benefited by the easement; and
- (b) An identification of the approval, permit, or designation granted which relied upon or required the declaration and covenant of easement; and
- (c) A maintenance provision for the easement; and
- (d) A provision providing that the burdens of the declaration and covenant of easement shall be binding upon, and the benefits of the declaration and covenant of easement shall inure to, all successors in interest of the real property.

### **9-11.070 Execution**

The declaration and covenant of easement shall be executed and acknowledged by the record owner[s] of the real property subject to, and benefited by, the easement.

### **9-11.080 Recordation and Effect**

The declaration and covenant of easement shall be recorded with the Plumas County Recorder's office. The recorded declaration and covenant of easement shall impart notice thereof to all persons to the extent afforded by the recording laws of the State of California. Upon recordation, the burdens of the declaration and covenant shall be binding upon, and the benefits of the declaration and covenant shall inure to, all successors in interest to the real property.

### **9-11.090 Release of Covenant**

- (a) The declaration and covenant of easement may be released in accordance with the procedure set forth in this section.
- (b) Any person, whether or not that person has title to the real property burdened or benefited by the easement, may file a written request for a public hearing on the release of the declaration and covenant of easement. The request for hearing shall be filed with the Clerk of the Board of Supervisors and shall include the following: (1) A conformed copy of the recorded declaration and covenant of easement; (2) legal descriptions of the real property benefited and burdened by the easement; (3) a statement that the request for hearing is being filed pursuant to the provisions of this chapter; and (4) a fee prescribed by the master fee schedule as determined pursuant to Section 9-11.100.
- (c) Upon notification and receipt of the request for release of declaration and covenant of easement, the Board of Supervisors shall hold a public hearing regarding a release of declaration and covenant of easement recorded pursuant to this chapter. At the conclusion of the public hearing, the Board of Supervisors shall determine and make a finding by resolution, based upon substantial evidence contained in the request and/or presented at the public hearing, whether the restriction imposed by the declaration and covenant of easement is still necessary to achieve the land use goals of the County. If the Board of Supervisors determines that the declaration and covenant of easement may be released, the County shall cause to be recorded with the Plumas County Recorder's Office a release of the declaration and covenant of easement.

### **9-11.100 Fees**

The Board of Supervisors may adopt by resolution a fee to recover the reasonable cost of processing the release of the declaration and covenant from those persons requesting the release pursuant to Section 9-11.090 of this chapter.

### **9-11.110 Standing to Enforce or Challenge**

Nothing in this chapter shall create in any person other than the County of Plumas and the owner of the real property burdened or benefited by the declaration and covenant of easement standing to enforce or to challenge the declaration and covenant of easement or any amendment thereto or release therefrom. The County shall have the right, but not the obligation to enforce the declaration and covenant of easement.

### **SECTION 3.**

The Board of Supervisors finds that the changes effected by this ordinance are exempt from the provisions of the California Environmental Quality Act (CEQA), per section 15061 of CEQA Guidelines, because it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment.

**SECTION 4.**

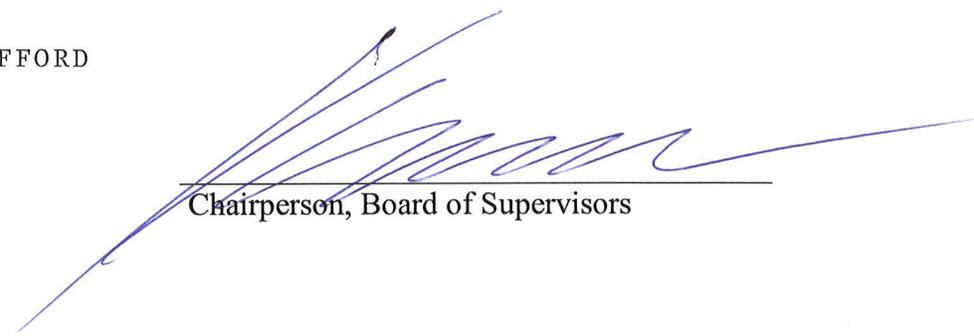
This ordinance shall become effective thirty (30) days after its date of final adoption. It shall be published in the *Feather River Bulletin*, a newspaper of general circulation in Plumas County, within fifteen (15) days of final adoption. Section 3 of this ordinance shall be codified; the remainder shall be uncodified.

Introduced at a regular meeting of the Board of Supervisors on the 7<sup>th</sup> day of July 2015, and passed and adopted by the Board of Supervisors of the County of Plumas, State of California, on the 14<sup>th</sup> day of July 2015, by the following vote:

**AYES:** Supervisors: THRALL, ENGEL, SIMPSON, GOSS

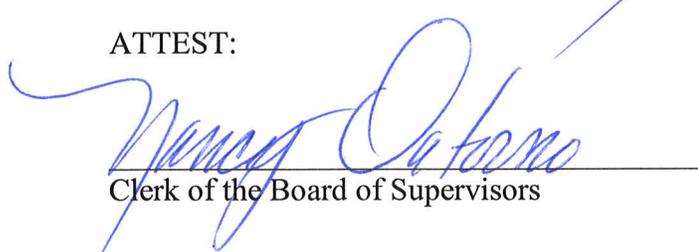
**NOES:** Supervisors: NONE

**ABSENT:** Supervisors: SWOFFORD



\_\_\_\_\_  
Chairperson, Board of Supervisors

**ATTEST:**



\_\_\_\_\_  
Clerk of the Board of Supervisors